



**MINUTES OF THE GILA COUNTY
PLANNING AND ZONING COMMISSION**

Thursday, September 19, 2019

Gila County Board of Supervisors Conference Room
610 E. State Hwy 260, Payson, AZ

Gila County Board of Supervisors Conference Room
1400 E. Ash Street, Globe, AZ

10:00 A.M.

REGULAR MEETING

1. The meeting was called to order at 10:00 A.M. by Chairman Mickie Nye.
2. Pledge of Allegiance was led by Michelle Dahlke.
3. Roll Call: Shealene Loya called the roll; Chairman Mickie Nye (in Payson), Travis Holder (in Globe), Lori Brown (Absent), Bill Marshall (in Globe), Terry Otts (in Globe), Randy Slapnicka (in Payson), Mary Lou Myers (in Payson), Jim Muhr (in Payson) and Pamela Griffin (in Globe). A quorum is present.

Community Development Staff Members Present: Scott Buzan-Director, Michelle Dahlke-Senior Planner and Shealene Loya-Administrative Assistant.

4. Review and Approval of the Planning and Zoning Minutes on June 20, 2019 and July 18, 2019. Chairman Nye asked if there were any changes needed to the minutes. No changes were suggested. Mr. Marshall motioned that the minutes be approved as is and Mrs. Myers seconded the motion. The motion was unanimously approved.
5. **Director/Planner Communication:** At any time during this meeting of the Planning and Zoning Commission, the Director and/or Planner of Community Development may present a brief summary of current events. No action may be taken.

Scott Buzan took this time to update the Board on the status of rewriting the Gila County Zoning Ordinance. Scott and Michelle held a status update meeting the week prior to the Planning and Zoning Commission meeting and found that Michelle was making great progress on the Zoning Ordinance.

Mrs. Dahlke had nothing to report.

Information/Discussion/Action:

Public Hearing:

Agenda items number 6 and 7 for Larry Sheehan were presented after agenda item number 8. Please see page 14 of the minutes.

6. Z-19-04 - LARRY SHEEHAN (See page 14 of minutes)

An application to amend the Gila County Zoning Ordinance for parcel 304-32-012A currently designated RR (Rural Residential District) to M3 (Industrial Three District – Unrestricted Industrial), allowing the applicant to develop a commercial manufacturing business. This property is located at 16424 N AZ HWY 87 in Rye, AZ.

7. CPA-19-01 - LARRY SHEEHAN (See page 14 of minutes)

An application for a minor amendment to the Gila County Comprehensive Master Plan for parcel 304-32-012A to change the land use designation from Multifunctional Corridor to Light Industrial allowing the applicant to develop a commercial manufacturing business. This property is located at 16424 N AZ HWY 87 in Rye, AZ.

8. AMENDMENTS TO THE GILA COUNTY ZONING ORDINANCE

Section 101.3- Administrative Variance

Mr. Buzan began his presentation with the proposed amendments to Section 101.3 of the Zoning Ordinance in which it is being proposed that decision letters for Administrative Variances be sent by First Class U.S. mail. Currently, decision notices are being sent by Certified U.S. mail. There are no state statutes that require these notices to be sent via Certified mail and the cost to send each notice is approximately \$7 a notice. Mr. Buzan also explained that staff spends a lot of time drafting and preparing each Certified notice for mailing. Community Development's mailing cost last year was over \$2,100 with a large part of that cost being Certified mailings. The proposed amendment would allow for Administrative Variance decision letters to be sent by First Class U.S. mail instead of Certified mail.

Section 102- Definitions

Mr. Buzan explained that additional definitions and language will be added to the Zoning Ordinance due to some of the amendments that are being proposed.

Section 103.3- Restriction on Regulating Through Zoning

Mr. Buzan stated that this amendment would add wording from state statutes that state the cultivation of cannabis and marijuana is not defined by the state as being a general agricultural purpose. This means that it is not exempt from zoning regulations or permitting.

Mr. Buzan also stated that this amendment would include clarification on an added language pertaining to non-conforming uses and structures. It would include expansion of the use and increase the time limit before losing non-conforming status from 12 months to 18 months. This was requested by Supervisor Martin.

Section 104.4- Use Districts (Commercial)

Mr. Buzan explained to the Commission that currently the zoning ordinance is clear that sales of alcohol is only allowed in a Commercial 1 (C1), Commercial 2 (C2) and Commercial 3 (C3) zoning. Consumption of alcohol is currently only allowed in C3 zoning. Alcohol sales and consumption have been erroneously authorized by the Board of Supervisors in districts other than the Commercial districts in the past, but the County does not have any legal obligation to continue to make those errors. At the request of Supervisor Martin, staff looked into the possibility of allowing alcohol consumption and sales in districts other than Commercial Districts in order to increase development in Gila County. County staff considered 4 things when looking into this possibility: only allowing for alcohol consumption and sale in districts that already have commercial uses, ensuring that future staff is able to understand this particular section of the Zoning Ordinance, making sure that this use will be harmonious with surrounding uses and that the entire County benefits from this amendment.

Staff is recommending approval to amendments involving the Transitional Residential (TR), General Unclassified (GU), Commercial 1 (C1) and Commercial 2 (C2) zonings to allow alcohol sales and consumption with a Conditional Use Permit (CUP).

Mr. Buzan explained to the Commission that a CUP is a tool in zoning that allows a use that is not normally a permitted use. During the process of obtaining a CUP, conditions can be set to ensure the use will remain harmonious with the surrounding area, the public and adjoining property owners have the ability to have a say in what is being permitted, the Planning and Zoning Commission gets to vote on the CUP and the applicant has the ability to appeal the Planning and Zoning Commission's decision to the Board of Supervisors. The only other option to allow for alcohol sale and consumption in a district other than C3 would be to rezone that particular property which can create "spot zoning" throughout the County and go against the Gila County Comprehensive Plan.

Mr. Buzan went on to state that rezoning may not be the best solution. For example, once a property has been rezoned to a C3 zoning to allow for alcohol sale and consumption, any commercial uses would be allowed on the property, whether it be a "mom and pop" restaurant or a big box store. The CUP process is a tool used currently in the Zoning Ordinance and allows for a due process for the applicant or property owner.

Mr. Buzan informed the Commission that staff had received a letter the previous day that stated the proposed amendments that regulate alcoholic sales and consumption through

zoning are unlawful per the author's interpretation of Arizona Revised Statute 4-442. He went on to state that the planning zoning Commission's duty today is to determine if the proposed amendments to the zoning ordinance is a good solution to an existing problem and that the Commission does not decide if the proposed amendments are lawful or unlawful. The County attorney believes that the proposed amendments are valid and lawful. Mr. Buzan also stated that the County attorney could amend the zoning ordinance along with the Board of Supervisors and determine if the changes are valid and lawful. The only action taken by the Commission at the time of this meeting is to make a recommendation to the Board of Supervisors to approve or disapprove the recommendations of the proposed amendments that hope to reduce expense and time, make some clarifications when dealing with non-conforming uses that will help protect existing businesses and add some definitions. The County wants to promote new business development that includes the sale and consumption of alcoholic beverages and want to ensure that County residents have a fair process for seeking approval on projects and a way to voice their comments and concerns on matters that they care about. Staff asked that the Commission recommend approval of the proposed amendments to the Board of Supervisors. Mr. Buzan concluded by offering to answer any questions the Commission might have.

Chairman Nye explained to everyone in attendance the process that occurs during a meeting. He stated that the Commissioners will discuss the topic, ask staff any questions regarding the topic and gather as much information as they can before coming to a decision. He also stated that if anyone in the audience wished to voice their comments or concerns regarding any of the topics, that they need to stand at the podium and state their name and where they live before presenting their case. Chairman Nye also asked that anyone who wants to speak not get personal.

Mr. Slapnicka clarified with Mr. Buzan that in the past, a business had 12 months to meet any non-conforming use requirements. He also clarified that properties that are zoned General Unclassified, the Commission will have to decide how those properties will be affected by the amendments. He asked Mr. Buzan if the whole purpose of these changes and having people go through the Conditional Use Permit process is to open up more possibilities for facilities that wish to offer the sale and consumption of alcoholic beverages, to which Mr. Buzan answered with a yes and that it also gives property owners of the subject property a chance to sell their project to their neighbors.

Chairman Nye confirmed with Mr. Buzan that the proposed changes are not attempting to correct any past mistakes and that anyone who is currently operating as something that would not be approved with these changes can continue their operations as long as they don't close their business. Chairman Nye also asked if a business wanted to apply for a liquor license, would they need to go through the County Board of Supervisors to get their approval before going before the State.

Mr. Buzan stated that from what he understands of the process, a business would start the process with the liquor department and then it would go to the Clerk of the Board who then distributes it to various departments within the County to make sure there are no open permits or any violations that would be detrimental to allowing a liquor license at that location. He also stated that the Board of Supervisors makes a recommendation to the liquor board. They don't approve or disapprove the case.

Mr. Marshall stated that he is concerned with overstepping the Commission's bounds with these amendments and why the Commission is needing to be involved with these changes. He understands that the Commission's purpose is to determine if the proposed zoning ordinance is a good solution to existing problems but is not sure what the existing problem is.

Mr. Buzan answered by stating that the problem has been in the past that the County has made errors and approved alcohol sales and consumption in other zoning districts other than C1, C2 and C3. These changes are to clarify the zoning ordinance so that going forward, the zoning ordinance is clearer on these topics.

Mr. Slapnicka stated that he feels that the CUP process is good because it allows the County to expand some of the uses of some properties. It also allows the public to be a part of the process.

Mr. Marshall asked who currently approves the Conditional Use Permits.

Mr. Buzan answered by stating that if these amendments are approved, the Planning and Zoning Commission would approve the Conditional Use Permits, but currently a CUP is not an option for properties that are not zoned C1, C2 or C3.

Mr. Marshall also asked if these amendments are putting the County in a position to be sued.

Mr. Holder expressed that he had similar concerns and asked if Mr. Dalton could provide his opinion on if moving forward with these amendments is lawful.

Mr. Dalton, who is a deputy Gila County Attorney, stated he believes the action can be defended in court because the Planning and Zoning Commission's role is to not make a decision, but rather make a recommendation to the Board of Supervisors only who then make the final decision.

Mrs. Griffin also stated that she has the same concerns as Mr. Marshall and Mr. Holder. She voiced concerns regarding the state liquor law that is in place and if the Commission and County have contacted the liquor board to discuss this.

Mr. Slapnicka stated that there are other departments that take care of the licensing for liquor. He stated that it's a long jump from us approving zoning criteria to being responsible for somebody getting in a car and driving into another car and causing a death.

Chairman Nye wanted to clarify with Mr. Buzan that these changes are making the process easier for people.

Mr. Buzan stated that it's giving people more options and opportunities. It is not necessarily making it easier because they still need to go through the CUP process and have the community weigh in on their projects.

Mr. Muhr asked Mr. Buzan if he could expand on his comments regarding public safety and making that easier.

Mr. Buzan clarified that he did not mean to make it sound like it would be easier, just that conditions could be made on a CUP, such as a guard rail on a windy road. Staff would make recommendations in their report to the Commission and then the Commissioners would open it up to the public as the public hearing and take the input. Then the staff or the Commission has the ability to, in their motion or approval of the CUP to either accept status conditions, the public conditions or their own conditions. One condition could be a timeframe where the case become subject to a renewal in a couple of years or so. It allows staff to visit the property and verify that it is compliant with other conditions that were set at the time of approval.

Mr. Muhr brought up an example of a condition that may be imposed- having the business close at 10 o'clock with no noise or music.

Mr. Buzan stated that although Arizona Revised Statutes state that the County has no authority over hour of operation, it can regulate noise, outside activities, parking, etc. He went on to explain that the County is not stating that the State cannot issue a liquor license to an applicant, which is not the County's authority. The County is only regulating the usage of the alcohol sales and consumption through zoning as the statute states with lawful zoning regulation.

Mr. Muhr asked Mr. Buzan if the Commission was to move forward with these amendments, if their recommendation would go to the Board of Supervisors and would the County Attorney determine the legality of the decision.

Mr. Buzan stated that the Board of Supervisors works closely with the County Attorney's office and would call upon the County Attorney for input on the amendments.

Mr. Muhr also asked Mr. Buzan if the Commission went forward with these amendments, would that mean that there would be an opportunity for public input each time there was a business that wished to go in under the amendments.

Mr. Buzan stated that there would be a public hearing that would need to take place and that members of the public could attend in person or even mail or email their comments and concerns. Public notices would be published in the newspaper as well.

Chairman Nye asked if the County Attorney has already previewed the recommended amendments to which Mr. Buzan stated that he has been working closely with Mr. Dalton from the County Attorney's office.

Mrs. Myers asked if these amendments were similar to what other counties in the state have.

Mr. Buzan stated that during his research for these amendments, staff looked at 11 other counties in the state of Arizona and each one had regulations for alcohol sales and consumption.

Mr. Buzan also addressed the fact that Gila County's Zoning Ordinance was adopted in 1959 and at that time C3 regulated sale and consumption of alcohol.

Chairman Nye opened the hearing up for any comments from the public.

Michael Harper was the first to speak from the public. Mr. Harper stated that the Commissioners were hearing about this amendment because of his client, Robert Mitchell, who owns Below the Rim Meadery located in the Verde Glen area in Northern Gila County. He went on to state that Mr. Mitchell had applied for a liquor license and went through the process of going before the Board of Supervisors and notifying his neighbors of the BOS meeting where anyone was able to voice any comments or concerns. Many members of the community showed up at the BOS public hearing and voiced comments both for and against Mr. Mitchell's project. The Board of Supervisors decided to recommend to the Liquor Board not to grant the liquor license because that is all they can do with their authority in regard to liquor licenses. The ability to issue a license is the responsibility of the State of Arizona. Mr. Harper and his client went before the Liquor Board where members of the public came and the Board of Supervisors were presented by Mr. Dalton of the County Attorney's office, who acted as the opposing counsel. The liquor license was granted by the Liquor Board. Mr. Harper claimed that the County is trying to change the zoning to stop the use of Mr. Mitchell's property.

Mr. Harper continued by stating that the Arizona Liquor Board is the one that decided whether a license gets issued or not. He believes his client has right to hold wine tastings

on his property per the liquor license issued by the State. Mr. Harper also stated that the County has issued a number of restrictions against his client's development plan, preventing him from having wine tasting on his property. He stated that this is not legal because the State's authority preempts the County's ability under statute 4-224 that states the County shall not adopt ordinances or regulations that conflict with the state liquor laws. Mr. Harper stated that the notion that these amendments are going to expand opportunities for new liquor licenses or new business opportunities is not true.

Mr. Harper went on to say that there are currently 16 liquor licenses operating in GU zoned areas with no Conditional Use Permits, which is what Mr. Mitchell's property is zoned. He stated that the notion that the zoning codes in their current state excludes liquor licenses and liquor use in GU areas is inconsistent because the code does not say that, and it is also inconsistent with what Gila County has done for decades in terms of approving and authorizing liquor sales in GU areas. He also stated that the notion that liquor sales and consumption are only allowed in the C3 zoned areas is inconsistent because there is a small amount of businesses with liquor licenses operating in C3 areas, which the County is saying is not allowed.

Mr. Harper informed the Commission that he and his client have prepared a complaint that they are likely going to file in Federal court. He also stated that the County has been trying to prevent his client from operating under a liquor license for the past 2 years. Mr. Harper informed the Commissioners of ARS 4205 that states licensed farm wineries may serve wine on the premises. He claims that the County has tried to formalize these restrictions by passing these new changes to the zoning codes. In the Zoning Ordinance for C1 zoning, the County states that only the sale of alcohol is allowed, but the County cites SIC code 58, which allows sale and consumption. Mr. Harper stated that because his client already went through the liquor license process, the County is trying to legislate around the issue to create a solution. Mr. Harper also talked about a winery about 10 miles away from Mr. Mitchell's property in the same GU zoned area that is operating and has been for years.

Mr. Harper concluded by stating it is his firm recommendation that these amendments not be recommended to the Board of Supervisors. The decision-making authority and the grant of the rights that come with the liquor license lie with the State Liquor Board and the County does not.

Mr. Marshall asked Mr. Harper if a person owns a property of land on which they have already established a winery with proper licensing, but then they wish to have the sale and consumption of alcohol, does that person need to obtain additional licensing for that?

Mr. Harper stated that if a person has a farm winery, they must obtain a state issued liquor license.

Mrs. Griffin asked how far down the road is Mr. Mitchell's winery to which Mr. Mitchell answered with 1.5 miles.

Mr. Mitchell informed the Commission that he owns a 9-acre parcel in the Verde Glen area which he has owned for 11 years.

Mr. Marshall asked Mr. Mitchell how far from his winery is the other winery that was discussed earlier. Mr. Marshall stated that the winery was about 5 miles from his property. He also stated that they are allowed to have sales and tastings at their location.

Chairman Nye asked Mr. Mitchell what the name of the other winery was, which Mr. Mitchell revealed was Sollenberger Winery. He also asked that if he owns 10 acres in the middle of a subdivision and wants to put a winery and vineyard in the middle of this property, the County could not tell him no.

Mr. Harper answered this question by stating that if the property is zoned GU and the State Liquor Board has heard the opinions of the public and the County and issues a liquor license, that use is allowed on that GU zoned property.

Chairman Nye asked Mr. Buzan if the County has the right to limit the use of a GU zoned property.

Mr. Buzan stated that the County has an adopted Zoning Ordinance that was approved by the Board of Supervisors that regulate the use of a property within a GU district so that whatever project or business is being suggested, it has to meet the current zoning requirements.

Chairman Nye stated that if a person already has their license and are already zoned, he is not sure what the problem would be with that specific case, but that the Commission is not talking about that specific instance, but instead are discussing zoning in general.

Mr. Harper stated that he would like to know the answer to Chairman Nye's statement in that is it the County's position that the changes being presented are not going to apply to Mr. Mitchell.

Mr. Mitchell stated that he has a letter from the Assistant County Manager stating that the County will use all of their legal authority to prosecute him if he tries to sale or consume alcohol on his property. He also informed the Commission that wineries make about 70% of customers who buy their wine after they have participated in a tasting.

Chairman Nye presented the question of how the County is going to handle the already existing businesses that are in operation in GU zoning once these proposed changes have taken place.

Mr. Mitchell informed that Commission that Verde Glen is only 50% developed. There is a 160-acre land patent and only 50% of it has been developed into residential. The other 50% is still open land. Mr. Mitchell had originally purchased his 9 acres to create a subdivision but was told he could not do that. His last use for his property is his winery.

Mr. Harper stated that he would like to hear the County's position on whether the amendments would not apply to Mr. Mitchell's property.

Mr. Buzan addressed this by stating that the Sollenberger Winery near Mr. Mitchell's property never went through the proper zoning or permitting process and therefore is not approved. He stated that he did not say the Board of Supervisors did not recommend approval of the liquor license, but that Community Development and the County do not recognize that there is an operating winery on that property.

Mr. Buzan stated that in a GU zoning, section 104.2 of the Zoning Ordinance states that expressing an enumeration and authorization of a particular class of structure or use in a designated district shall be deemed approved in all other districts where such are not specifically designated as allowable. The only district that allows alcohol sales and consumption is C3.

Mr. Marshall stated that he is aware of a winery in Young and asked what process they had to go through to be able to operate.

Mr. Buzan informed the Commission that that winery is in an unzoned area of Young and that County has no authority to regulate its operation therefore they do not have to comply with the County's zoning regulations.

Chairman Nye stated that although the Commission has made mistakes in the past, these changes are for the future. The Commission did not have the meeting to determine if Mr. Mitchell's business is legitimate. The Commission's job is to discuss changes in the Zoning Ordinance and the regulations in these districts.

Mr. Slapnicka asked if those businesses that currently exist in the GU zoned districts will not be affected by the changes in the Zoning Ordinance.

Mr. Buzan answered by stating that these particular properties would be considered nonconforming use due to the zoning change, but as long as they have a vested right,

continue the operation and don't suspend it for over 18 months, they can remain in operation.

Mr. Harper spoke up and stated to the Commission that what is being presented to them is not what the Zoning Ordinance currently states in regard to liquor sales and consumption only being allowed in a C3 zoned area. He states that this has nothing to do with GU zoning, which has been allowed to have liquor sales and consumption in Gila County for decades. He believes that these changes are going to restrict the rights of those who have obtained a liquor license by making those property owners apply for a Conditional Use Permit. Mr. Harper also stated that when Mr. Mitchell went into the Community Development office to apply for his Development Plan, the previous director said he did not need a Conditional Use Permit in GU zoning. He stated that the current Director, Mr. Buzan rescinded the approval and was eventually pulled off the Development Plan due to a conflict of interest because Mr. Buzan owns property in the same area as Mr. Mitchell. In Mr. Harper's opinion, Mr. Buzan has a conflict of interest with this entire case.

Mr. Slapnicka asked Mr. Harper how these amendments will affect his client if they are approved.

Mr. Harper and Mr. Mitchell answered by stating that they have a letter from the County that states it will shut down his business.

Chairman Nye stated that determining if Mr. Mitchell's business is a good idea or a bad idea is not the role of the Commission. If a person does not like a decision made by the Commission, they have the right to take it to the Board of Supervisors or to file their case in court. The Commission's role in this decision is to determine if these amendments will make it easier for people to do business in Gila County easier.

Mr. Mitchell asked Chairman Nye if the current Zoning Ordinance states that an establishment that sales and consumes alcohol is allowed per SIC 58 with a Use Permit, why is the County wanting to make it more restrictive by requiring people to apply for a Conditional Use Permit?

Chairman Nye answered by stating that the Commission's interest is in protecting the neighborhood and the community. The reason for the setting conditions is to try and make everyone happy. Chairman Nye went on to say that that case at hand for the Commission is to decide if they want to recommend approval of the changes to the Zoning Ordinance, not to discuss the politics or legalities surrounding Mr. Mitchell's case.

Mr. Harper stated that he does believe it involves the legalities of Mr. Mitchell's case because per ARS 4224, the County shall not adopt ordinances or regulations that conflict with the liquor laws.

Chairman Nye reiterated that the Commission's role is to simply make a recommendation to the Board of Supervisors, who will make the ultimate decision on whether these amendments will be adopted.

Mr. Marshall informed the Commission that he is not comfortable with supporting the amendments because he feels that changing the zoning regulations is trying to bend the State law.

Don Ascoli, who lives in the Verde Glen area, was the next member of the audience to speak. Mr. Ascoli stated that Mr. Harper failed to mention that for the first time in history, the Arizona Liquor Board set restrictions on the license that was issued to Mr. Mitchell due to the overwhelming opposition that was present by those living in Verde Glen and in that GU zoned area. One concerns of those living in the surrounding area and of the State Liquor Board was the road leading into the Verde Glen area. Mr. Ascoli stated that it is one of the worst windy roads in the County and some areas of the road are not wide enough for 2 cars to pass each other. This is one reason that Board of Supervisors did not recommend approval of the liquor license due to safety.

Mr. Ascoli also informed the Commission that the Liquor Board also set limits on the window of time Mr. Mitchell's winery could operate. According to Mr. Ascoli, for the first time in history the Liquor Board set a condition that the winery could only operate from noon to sunset. This shows the amount of concern the Liquor Board had when granting the liquor license.

Mr. Ascoli also touched on the location of the property and expressed his concern with the amount of traffic that may be present on the road if Mr. Mitchell was to open his winery for commercial uses. He stated that the Verde Glen area is about 15 miles from town and is very remote.

Mr. Ascoli asked the Commission if other Counties have CUP involvement when it comes to situations like this, to which the answer was yes. Mrs. Dahlke stated that some Counties may call the permit something different, but that they all follow the same rules. Mr. Slapnicka stated that he owns a bar and restaurant in Coconino County and has four CUPs on his property from the County.

Mr. Ascoli also stated that he was not aware of the existing winery located in the Verde Glen area and will be gathering information on that as well.

He concluded by stating that he supports the proposed changes to the Zoning Ordinance because it allows for more opportunity in Gila County and it allows for public input.

Harry Farrell was the next member of the public to speak. Mr. Farrell stated that he owns property that is adjacent to Mr. Mitchell's. He agrees that the Planning and Zoning Commission should have a say in what is going on in the community because the State doesn't see what is going on in the community.

Mr. Farrell asked if the County has thought of other methods of advertising for public hearings other than putting an ad in the newspaper and sending letters, to which Chairman Nye stated the staff is currently looking into other means of advertising.

Mr. Farrell also stated that he has concerns regarding people being able to drink alcohol and travel along the windy road leading into and out of the Verde Glen area where Mr. Mitchell would potentially be operating his winery.

Mr. Farrell concluded by stating he is in support of the amendments.

Mr. Slapnicka voiced that he is in support of the amendment to the Zoning Ordinance.

Mrs. Myers stated that the times have changed in the last 15 years ago and that certain things need to be more definitive so that the community understand what is written and the process.

Mr. Buzan addressed statements made by Mr. Harper in which Mr. Harper claimed that there is a conflict of interest that Mr. Buzan is involved with the proposed amendments. He stated that this task falls under his duty as the Director of Community Development. The Zoning Ordinance defined him as a zoning inspector.

Mr. Buzan asked Mr. Dalton if he could reassure everyone that his position in this case is not a conflict of interest.

Mr. Dalton explained to the Commission and everyone in attendance that Mr. Buzan would have to stand to get money in his pocket by virtue of this decision or gain or lose land. If Mr. Buzan is not going to gain or lose money or land, he has no pecuniary or proprietary interest in the decision that is being made.

Mr. Buzan also made it clear to the Commission that he chose to remove himself from Mr. Mitchell's Development Plan process because of a perceived conflict that may arise due to Mr. Buzan owning property within the same neighborhood as Mr. Mitchell.

Mr. Slapnicka motioned that the Commission approve the proposed amendments to the Gila County Zoning Ordinance 2014-04.

Mr. Muhr second the motion.

Mrs. Loya called on each Commissioner for his/her vote. They were as follows:

Chairman Nye, Mr. Holder, Mrs. Myers, Mr. Slapnicka, Mr. Muhr and Mr. Otts voted to approve the amendments to the Zoning Ordinance.

Mr. Marshall and Mrs. Griffin voted against the approval.

Mrs. Brown was not in attendance.

The motion to approve the amendments to the Gila County Zoning Ordinance passed with a 6 to 2 vote.

Agenda items 6 and 7 for Larry Sheehan

Z-19-04 - LARRY SHEEHAN

An application to amend the Gila County Zoning Ordinance for parcel 304-32-012A currently designated RR (Rural Residential District) to M3 (Industrial Three District – Unrestricted Industrial), allowing the applicant to develop a commercial manufacturing business. This property is located at 16424 N AZ HWY 87 in Rye, AZ.

CPA-19-01 - LARRY SHEEHAN

An application for a minor amendment to the Gila County Comprehensive Master Plan for parcel 304-32-012A to change the land use designation from Multifunctional Corridor to Light Industrial allowing the applicant to develop a commercial manufacturing business. This property is located at 16424 N AZ HWY 87 in Rye, AZ.

Mrs. Dahlke presented both of Mr. Sheehan's cases to the Commission.

Mrs. Dahlke began her presentation by stating that that applicant, Mr. Sheehan, is requesting to develop his property in two phases in order to manufacture a power generator that he invented called the Hydro Airstream Power Generator. The first phase of the development includes the construction of a 5,000 square foot building that would provide enough space for the manufacturing. This phase will also include construction of a privacy fence around the property to screen the use from adjoining properties. Mr. Sheehan is anticipating employing

himself and four family members. In the second phase, a 20,000 square foot building would be erected adjacent to the 5,000 square foot building and the applicant anticipates up to 40 jobs being provided in this building. In the interim before the business begins operating, Mr. Sheehan is proposing to lease space on the property for recreational vehicles and automobiles, but this is not certain or a long-term use.

Mrs. Dahlke informed the Commission that staff had not received any comments or concerns from any of the adjoining property owners. Mr. Sheehan held a neighborhood meeting and spoke to all the adjoining property owners either at this meeting or separately. Mr. Sheehan claims that no one has any issues with the proposed projects.

Mrs. Dahlke explained that staff examined the area carefully to verify if the proposed use would fit and if the rezoning and amendment to the Comprehensive Plan would be appropriate. The area that Mr. Sheehan's property is located in primarily zoned C3 (Commercial three district) with some residential parcels scattered throughout the area. The primary use of the area is storage. Mrs. Dahlke informed the Commission that what Mr. Sheehan is proposing to do with his property is not allowed in a C3 zoned area or the multi-functional land use due to the manufacturing. Staff felt that the light manufacturing land use category would best suit the proposed business. The noise level would be a minimum and a privacy screen would be installed around the facility. Staff estimated that there may be an increase in traffic in the area but believed it would not negatively impact the neighborhood.

Mrs. Dahlke stated that staff is recommending approval of both cases.

Chairman Nye asked Mrs. Dahlke what types of land uses are around Mr. Sheehan's property.

Mr. Sheehan took this opportunity to answer Chairman Nye's question and stated that there is an ATV dealership to the north of his property and the land use to the south of his property (inaudible).

Chairman Nye also asked Mr. Sheehan when he plans on beginning the second phase of construction. Mr. Sheehan stated that he doesn't have an exact time but hopes to start within a year.

Mr. Sheehan stated that the reason for the larger building is to house large equipment needed in the manufacturing of his product.

Mr. Slapnicka asked Mrs. Dahlke what other uses are allowed in an M3 zoned area, such as marijuana. He asked if after the rezoning is approved and Mr. Sheehan wanted to grow marijuana, would it be allowed?

Mrs. Dahlke stated that it included any light industrial use and does not have any specifics listed in the Zoning Ordinance, but Mr. Sheehan would have to obtain an approved development plan in order to accomplish selling marijuana.

Mr. Buzan also stated that there are state regulations that would need to come into play if a marijuana growth facility and dispensary was in question.

Mr. Muhr asked Mrs. Dahlke if the County has a group that determines if the byproduct that Mr. Sheehan will be producing during his production is getting properly transported to proper facilities for disposal.

Mrs. Dahlke stated that the County does not, that would be a State responsibility.

Chairman Nye added that Mr. Sheehan would have needed to apply for a license through the State which in turn would make the State aware of what he is doing on the property.

Mr. Buzan stated that County staff made Mr. Sheehan aware that he would need to meet all State licensing requirements.

Mr. Muhr also asked Mr. Sheehan what height the privacy fence would be and on what side of the property it should be placed, to which Mr. Sheehan stated about 6 feet tall on the south side of the property.

Mr. Sheehan gave some background on the hydroelectric generator that he wished to manufacture. He stated that with the use of bubbles, he is able to carry six gallons of water a second which in turn produces about 8 kilowatts of power an hour.

Mr. Marshall motioned to approve cases Z-19-04 and CPA-19-01.

Mr. Slapnicka second the motion.

The motion was unanimously approved.

9. **Adjournment.** Mrs. Myers made a motion to adjourn the meeting and Mr. Muhr second the motion. The motion to adjourn was unanimously approved at 12:20 P.M.